



United States Department of Agriculture
Food and Nutrition Service

Western Region

Reply to
Attn of:

APB CACFP 03-09

May 29, 2003

Subject:

Responsibility to Report Licensing Violation

To:

All Western Region State Child Nutrition Programs Directors

This replaces APB: CACFP-96-21, "Licensing Violations," issued May 9, 1996, and clarifies State and sponsor responsibilities for reporting licensing violations, including exceeding the authorized license capacity.

The CACFP regulation at 7 CFR 226.6(o) requires that "If, during an administrative review ..., the State agency observes violations of applicable health, safety, or staff-child ratio standards, or attendance in excess of licensed capacity, the State agency shall promptly refer such violations to the appropriate authority." When the state agency reviewer observes licensing violations, the state agency is responsible to report the violation immediately to the licensing authorities.

Federal regulations do not require sponsors to report licensing violations. However, we strongly recommend states establish a policy requiring sponsors to report licensing violations. To ensure the welfare of children participating in CACFP, the sponsor and/or state agency should take immediate steps to bring the child care provider into compliance and notify the licensing authority. 7 CFR 226.6(o) requires that "if the health or safety of the children is imminently threatened, the State agency may immediately terminate participation of the institution or facility," and notify the appropriate authority. Whether or not a state requires it, we urge sponsor monitors to notify the appropriate authority if they observe these kinds of violations.

Regarding the licensed capacity of a child care provider, 7 CFR 226.18(e)(3) states: "Reimbursement may not be claimed for meals served ... at any one time to children in excess of the home's authorized capacity..." In situations where providers are operating on a shift basis (one set of children in the morning, a different set in the afternoon), we recommend the sponsor use of time in/time out records to ensure no child receives more than two meals and a supplement per day, and to document the licensed capacity is never being exceeded at any one time.

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